

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DIANA SURITA, on behalf of NENE E. :
CIFUENTES, :

Plaintiff, :

-against- :

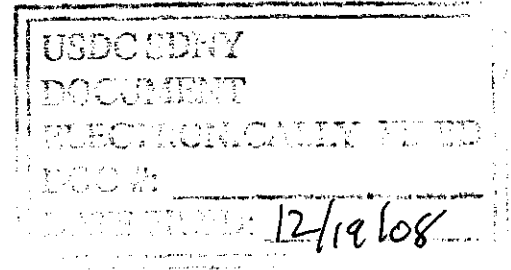
COMMISSIONER OF SOCIAL SECURITY, :

Defendant. :
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WILLIAM H. PAULEY III, District Judge:

Petitioner Diana Surita ("Surita") filed this action for review of the final decision of the Commissioner of Social Security (the "Commissioner"), who denied Surita's application for Supplemental Social Security ("SSI") benefits on behalf of her son, Nene Cifuentes. Both parties moves for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. In a Report and Recommendation dated November 21, 2008 ("the Report"), Magistrate Judge James C. Francis IV recommended that this Court grant Surita's motion, deny the Commissioner's motion, and remand the case. The parties have not filed objections to the Report.

This Court finds that the Report is not facially erroneous, and affirms and adopts it. Accordingly, Surita's motion is granted, the Commissioner's motion is denied, and the case is remanded to the Commissioner for further proceedings consistent with the Report.



07 Civ. 8461 (WHP) (JCF)

ORDER

The Clerk of the Court is directed to mark this case closed.

DATED: December 18, 2008
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

Copies mailed to:

Magistrate Judge James C. Francis IV
United States Magistrate Judge

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